IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6028 OF 2005

Shri Shrinivas Bhagwantram Goyal : Petitioner
(Orig. Applicant)

V/s.

Assistant Registrar Cooperative Societies
(On Deputation) Solapur & Ors. : Respondents

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Mr.N.P.Shimpi for the petitioner.

Mr.A.H.Palekar, Asstt. Govt. Pleader for the respondent no.1.

Mr.G.S.Godbole for the respondent nos.2 and 4.

Mr.M.A.Utagikar for the respondent no.3.

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CORAM : S.A. BOBDE, J.

October 18, 2005.

P.C.:

1. Rule, returnable forthwith.

The learned counsel for the respective respondents waive service of rule.

Heard by consent.

2. The petitioner has challenged the order dated

24.2.2005 rejecting his revision against the attachment order dated 10.8.2004 passed in pursuance of a Recovery Certificate. The revision has been rejected on the ground that 50% of the recoverable dues has not been deposited by the petitioner. The learned counsel for the petitioner submits that after the Recovery Certificate was issued in the year 2001, the petitioner has paid more than 50% of the entire recoverable dues in the year 2003 and, therefore, he has satisfied the condition required by section 154(2A) of the Maharashtra Co-operative Societies Act, 1960, hereinafter referred to as the "Act".

3. Mr.Godbole, the learned counsel for the respondent nos.2 and 4, admits that there is a deposit made. However, he submits that the deposit is made by the proposed purchaser of a gala owned by a firm of which the petitioner is the partner. The amount has been deposited in an escrow account and the Bank is not entitled to appropriate it towards the recoverable dues under the Certificate unless the petitioner produces a No Objection Certificate from the partnership firm. In these circumstances, I consider it appropriate to remit the matter back to the revisional authority to enable the petitioner to obtain a No Objection Certificate which will entitle the Bank to appropriate the amount deposited by

the proposed purchaser in the escrow account.

4. In the circumstances, the impugned order is set aside. The Divisional Joint Registrar is directed to reconsider the matter in case the petitioner obtains a No Objection Certificate which allows the Bank to appropriate the amount towards 50% of the recoverable dues as certified by the Recovery Certificate dated 17.10.2001. The petitioner may produce such a Certificate within 15 days of appearing before the Divisional Joint Registrar. The petitioner is directed to appear before the Divisional Joint Registrar on 25.10.2005. The Divisional Joint Registrar is requested to decide the matter as expeditiously as possible and, in any case, not later than 17.11.2005. This order shall, by no means, be construed as allowing the entertainment of a revision without the requisite deposit under section 152(2A) of the Act. All contentions on merits are kept open.

5. The rule is made absolute in the aforesaid terms.

S.A. BOBDE, J.